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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,478	11/20/2003	Ram Pandit	02734-0609	6866
22852	7590	04/17/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER LOFTIS, JOHNNA RONEE	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 04/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/716,478

**Applicant(s)**

PANDIT, RAM

**Examiner**

JOHNNA R. LOFTIS

**Art Unit**

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 5/26/04, 6/7/04  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Inventor's Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following is a first office action upon examination of application number 10/716,478. Claims 1-30 are pending and have been examined on the merits discussed below.

#### ***Information Disclosure Statement***

2. The Information Disclosure Statements submitted on 5/26/04 and 6/7/04 have been considered by the Examiner.
- 3.

#### ***Oath/Declaration***

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 2, 3, 12, 13, 22, 23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. These claims are directed to clusters of origination or destination locations. It is not clear based on the specification how the loads are analyzed to set a first accent point at a cluster of location. Clarification is requested.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the phrase “capable of” is indefinite because it is not clear whether or not the system elements are actually performing the function that follows the “capable of” language, i.e., said functionality is not recited. For example, in claim 21, it is stated that the instructions are “capable of” causing a processor to, but it does not distinctly claim this function. An alternative would be -- the instructions causing a processor to -- this is just one example, there are several occurrences of the phrase “capable of”. Please make corrections.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2 and 7 rejected under 35 U.S.C. 102(b) as being anticipated by Strozniak, “Sharing the Load.”

As per claim 1, Strozniak teaches analyzing past load history, the past load history having a plurality of load data, wherein the load data has an origination location and a destination location (page4, para3 – loads are analyzed to create shared routes between manufacturers); creating the tour schematic based on the past load history (page4, para3 – loads are analyzed to create shared routes between manufacturers); and validating the created schematic (page8, top – routes are created based on business rules)

As per claim 2, Strozniak teaches analyzing past load history further comprises setting the first accent point at a cluster of origination or destination locations (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas).

As per claim 7, Strozniak teaches validating the created schematic further comprises validating that the created schematic meets a set of business rules (page7, para4 - page8, para1 – logistics are automated based on company rules).

Claims 11, 12, and 17 are directed to the system for performing the method of claims 1, 2 and 7. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 1, 2 and 7 are applied to claims 11, 12 and 17.

Claims 21, 22, and 27 are directed to the article of manufacture with instructions for performing the method of claims 1, 2 and 7. Since Strozniak teaches a collaborative logistics

system running over the Internet (page 4), the same rejections as applied to claims 1, 2 and 7 are applied to claims 11, 12 and 17.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3-6, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strozniak, "Sharing the Load."

As per claim 3, Strozniak teaches the first accent point is set (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas) but does not explicitly teach the cluster of origination or destinations exceeds a threshold value. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to consider threshold values when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way", so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 4, Strozniak teaches analyzing past load history further comprises establishing the first lane from the first accent point to the second accent point if the past load

history indicates a number of load data from within the first accent point to within the second accent point (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas) but does not explicitly teach exceeding a threshold value. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to consider threshold values when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 5, Strozniak teaches creating the tour schematic further comprises linking the first lane with a second lane, wherein the second accent point of the first lane is the same as the first accent point of the second lane (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas)

As per claim 6, teaches creating the tour schematic further comprises linking the second land with a third lane, wherein a second accent point of the second lane is the same as the first accent point of the third lane, and further wherein a second accent point of the third lane is the same as the first accent point of the first lane (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes

a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas)

As per claim 8, Strozniak teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 9, Strozniak teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 10, Strozniak teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at

least one of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries..

Claims 13-16 and 18-20 are directed to the system for performing the method of claims 3-6 and 8-10. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 3-6 and 8-10 are applied to claims 13-16 and 18-20.

Claims 23-26 and 28-30 are directed to the article of manufacture with instructions for performing the method of claims 3-6 and 8-10. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 3-6 and 8-10 are applied to claims 23-26 and 28-30.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

“Sharing doesn’t have to be daring”

“Nistevo Network Exceeds One Billion Miles...”

Ennen, Steve. “Web-based collaborative streamlines transportation.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/jl/  
4/14/08

/Jonathan G. Sterrett/  
Primary Examiner, Art Unit 3623